

**STATE OF MARYLAND
JUDICIARY**

**Policy on
Leave Donations
and
the Judiciary Leave Bank**

I. PURPOSE

To establish a uniform practice for the administration of leave donation and leave bank programs in the Judiciary.

II. DEFINITIONS

1. **Administrative Official** - the Clerk of Court for employees of each respective Circuit Court; the Administrative Clerk or Administrative Commissioner for employees of each respective district within the District Court; or the highest authority in the chain of command for employees of a department of the Administrative Office of the Courts, a department of the District Court Headquarters, or a court related agency.
2. **Designee** - someone designated by the Administrative Official or Executive Director of Human Resources to act on their behalf in matters pertaining to this policy.
3. **Regular Employee** - any person employed by the Judiciary, except an individual employed as a consultant or on a contractual or temporary basis.
4. **Serious and Prolonged Medical Condition** - a physical or mental impairment that substantially limits the ability of the individual to perform the essential functions of the individual's job, which cannot be accommodated through reasonable accommodation.

III. SCOPE

This policy applies to all regular employees of the State of Maryland Judiciary who successfully have completed initial probation (if required to serve an initial probation), except law clerks. Nothing in this policy is to be construed to prevent a judge from donating annual or personal leave to an eligible Judiciary employee or to the Judiciary Leave Bank, in accordance with the Administrative Order on Judicial Absences From Court. Judges are not eligible to receive donated leave, to be a member of the leave bank or to withdraw leave from the leave bank. Nothing in this policy is to be construed to prevent a Clerk of Court from donating sick leave to an eligible Judiciary employee or to the leave bank. Clerks of Court are not eligible to receive donated leave or to be a member of the leave bank or to withdraw leave from the leave bank. The administration of this policy is the responsibility of all Judiciary administrators, managers and supervisors responsible for the management or supervision of Judiciary personnel.

IV. POLICY STATEMENT

The Judiciary recognizes that employees may suffer from serious and prolonged illnesses that prevent them from performing their duties for extended periods, and that employees may not have sufficient accrued leave to cover such absences. To minimize economic hardship in these situations, the Judiciary has established leave donation and leave bank programs.

It is very important that employees manage their own leave in accordance with the Judiciary Sick Leave Policy and anticipate when their earned leave will be exhausted. Donated leave and leave from the leave bank will not be applied retroactively to absences unless there is a documented medical emergency. Except in a documented medical emergency, leave will not be applied to time missed prior to the date all completed paperwork and sufficient medical documentation are received by the employee's Administrative Official.

V. ELIGIBILITY

All regular employees of the Judiciary, as defined and explained under Sections II and III of this policy, are eligible to participate in both programs if the following criteria are met:

- (1) the receiving employee has exhausted all available annual, personal, sick and compensatory leave (unless the compensatory leave was earned in lieu of cash overtime) because of a serious and prolonged medical condition;
- (2) the donated leave or leave from the leave bank will be used for an illness

or disability of the receiving employee which is the result of a serious and prolonged medical condition as defined in this policy and that existed at the time leave was donated to the employee or the request for leave from the leave bank was submitted by the employee;

- (3) there is sufficient medical documentation to establish that the receiving employee has a serious and prolonged medical condition, which shall include the following: medical provider's name, address, telephone number and signature; medical facts to support the absence; date of commencement of absence and anticipated return-to-work date; ability of the employee to perform the essential functions of the job (If the employee has not provided sufficient documentation previously, then the Administrative Official shall request the documentation from the employee for the purpose of making this determination.);
- (4) the amount of donated leave or leave from the leave bank to be received by the employee, when added to that already received, will not exceed 320 hours within the last 12 months or 1,040 hours for the employee's career (These amounts include any leave previously received from the State Employees' Leave Donation and Leave Bank Programs or other such programs.);
- (5) the employee is in good standing, taking into consideration past leave usage, and disciplinary and performance records (An employee will not be eligible if he or she received any of the following: an overall rating of "needs improvement" or "unsatisfactory" or a rating of "needs improvement" or "unsatisfactory" in the categories of leave management (Non-FMLA related) or punctuality on the preceding year-end performance appraisal; or any disciplinary action within the last 12 months.);
- (6) the receiving employee has not solicited another employee to donate leave and has not, through intimidation, threat, or coercion, influenced another employee to donate leave;

If the employee fails to satisfy any of these conditions, the employee will be denied the use of donated leave and leave from the leave bank.

Unused donated leave will be returned to the donor. Leave granted to the employee from the leave bank that is not used shall revert to the bank.

Approval of withdrawal of leave from the leave bank is contingent on the availability of leave in the bank.

VI. LEAVE DONATION

_____ 1. Types of Leave That Can Be Donated

Leave donations are restricted to Judiciary employees only. A Judiciary employee cannot donate leave to, or accept leave from, an employee of another branch of government.

An eligible employee may donate unused annual, personal and sick leave to another Judiciary employee. Sick leave may be donated to another employee **only** if the donating employee has a sick leave balance of at least 240 hours after the donation has been made.

2. Donating Leave to Another Employee

An employee may indicate a need for donated leave by submitting **LDLB FORM I** to his or her Administrative Official.

Supervisors may post notices on Judiciary bulletin boards when Judiciary employees would like to receive donated leave, as long as all eligible employees are given the same opportunity to receive donated leave. Such notices should not identify the names of the employees requesting donated leave. Employees interested in donating leave may inquire, through their Administrative Official, about the identity of a requesting employee.

The unit also may distribute notices that an employee would like to receive donated leave, as long as the jurisdiction uniformly distributes notices for every employee who is eligible for donated leave and has made a request. Within a jurisdiction, it should be handled consistently throughout for all employees.

LDLB FORM 2 shall be used by an employee who wishes to donate leave to another employee. A donating employee shall complete the form and forward it to his/her Administrative Official or designee. Within 5 work days of receiving the form, the Administrative Official/designee shall determine:

- (1) whether the employee has the amount of annual or personal leave the employee wishes to donate; and/or
- (2) whether the employee will have a sick leave balance of at least 240 hours after the donation, if the employee is donating sick leave.

If these conditions are satisfied, the Administrative Official of the donating employee shall immediately forward the form to the Administrative Official of the receiving employee.

All donations should be kept confidential and the receiving employee should not be advised of who donated leave.

VII. RECEIVING DONATED LEAVE FROM ANOTHER EMPLOYEE

Upon receipt of the **LDLB FORM 2**, the Administrative Official of the receiving employee has 5 work days to forward **LDLB FORMS 1 and 2** to the Human Resources Department. The Administrative Official shall recommend the employee's participation or non-participation in the donated leave program and provide sufficient documentation and reasoning that supports the recommendation. If it is determined by the Human Resources Department, after considering the recommendation of the Administrative Official and appropriate documentation, that the receiving employee has satisfied the eligibility criteria in Section V of this policy, then the receiving employee may use the donated leave.

VIII. JUDICIARY LEAVE BANK

1. Joining the Judiciary Leave Bank

To be a member of the Judiciary Leave Bank, an employee must donate to the bank on a yearly basis a minimum of 8 hours of annual, personal or sick leave. There is no requirement that an employee have a minimum amount of leave remaining after making a donation to the bank.

An employee who wishes to join the bank must enroll when notified to so by the Executive Director of Human Resources by completing **LDLB FORM 3**. Upon completion, the employee submits the form to his/her Administrative Official. After verifying that the employee is eligible to join the bank, the Administrative Official will forward the completed form to the Human Resources Department. The employee's leave balance will be adjusted accordingly and the employee will be a member of the leave bank for one year. The membership will commence at the beginning of the next leave year and end at the conclusion of that leave year.

2. Requesting Leave From the Judiciary Leave Bank

An employee who wishes to withdraw leave from the leave bank must complete **LDLB FORM 1** and submit the form to his/her Administrative Official. Upon receipt of the **FORM 1**, the Administrative Official has 5 work days to forward the form to the Human Resources Department. The Administrative Official shall recommend the employee's participation or non-participation in the leave bank program and provide sufficient documentation and reasoning that supports the recommendation. If it is determined by the Human Resources Department, after considering the recommendation of the Administrative Official and appropriate documentation, that the employee has satisfied the eligibility criteria in Section V of this policy, then the employee may be granted leave from the Bank.

IX. RECONSIDERATION OF A DENIAL OF DONATED LEAVE OR LEAVE FROM THE LEAVE BANK

An employee who is denied donated leave or leave from the leave bank may request a reconsideration of that decision. An employee may request a reconsideration by completing **LDLB FORM 4**. The form should be accompanied by all medical information and any other information that the employee believes will support his/her request for reconsideration. The form must be sent to the Executive Director of Human Resources and it must be received in that office no later than 5 work days from when the employee became aware of the denial.

The Executive Director of Human Resources, or his/her designee, will determine, based on the information available, whether the original decision stands or is overturned. The determination of the Executive Director or his/her designee is final.

X. FORFEITED LEAVE PLACED IN JUDICIARY LEAVE BANK

Any accumulated and unused annual leave in excess of 480 hours and any unused personal leave shall be forfeited by an employee at the completion of the leave year. An employee also may be required to forfeit annual or personal leave as a result of a disciplinary action. Leave that is forfeited for these reasons is placed in the leave bank.

Unused sick leave, after three years of separation, and personal leave, upon separation, is placed in the leave bank. This does not preclude an employee's use of unused sick leave toward service credit for purposes of retirement.

XI. INTERPRETIVE AUTHORITY

The Judiciary Human Resources Department, in consultation with other parties as appropriate, is responsible for the interpretation of this policy.